

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6640

BILL NUMBER: HB 1104

NOTE PREPARED: Jan 5, 2015

BILL AMENDED:

SUBJECT: State Board of Accounts Examinations.

FIRST AUTHOR: Rep. Lehman

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill permits the State Board of Accounts (SBOA) to determine the frequency with which the SBOA conducts financial examinations based on risk-based criteria approved by the Audit and Financial Reporting Subcommittee of the Legislative Council.

It indicates that the results of an examination of the SBOA are confidential until approved and released for publication by the State Examiner. The bill permits disclosure under certain circumstances.

Effective Date: July 1, 2015.

Summary of NET State Impact: The bill is expected to have minimal increased cost for developing an audit schedule based on risk-based criteria rather than statutorily enacted time intervals.

The Class A infraction concerning communication of knowledge of confidential results would provide additional revenue to the state General Fund and some dedicated funds if infraction judgements are ordered.

Explanation of State Expenditures: The bill may allow the SBOA to manage its workload by allowing the SBOA to set an audit schedule based on risk-based criteria and by removing statutory time requirements for audit. The process may minimally increase the workload for the SBOA to prepare, maintain, and apply risk-based criteria and receive approval from the Audit and Financial Reporting Subcommittee of the Legislative Council. The application of risk-based criteria to the SBOA's audit schedule is expected to have minimal fiscal impact on the SBOA's resource needs.

Additional Information: Under state law, the SBOA is responsible for audit of the state, local units, school corporations, and quasi-governmental entities. Entities receiving federal awards over \$300,000 must be audited on an annual basis. However, Indiana is allowed to perform biennial audits of federal award recipients because state laws in place on January 1, 1987, require less frequent audits.

The SBOA, in its enabling statute, is required to annually audit the state, cities, counties, towns with a population greater than 5,000, and public hospitals, and biennially audit other municipalities and entities. Additionally, many state statutes enabling state and local entities require audits at certain intervals or on specific dates. The bill would remove the specific times for many audits, while maintaining the annual audit of state government and the exemption from annual audits for federal award recipients. Under the bill the SBOA would be allowed to develop its audit schedule using risk-based criteria with a requirement that every entity is audited at least every four years.

The SBOA receives \$45 per day per field examiner from taxing units and full costs from nontaxing units. The estimated cost to the SBOA per day per field examiner is \$640. The SBOA issued about 1,586 audits and examinations in 2013.

Risk-Based Criteria: Generally Accepted Government Auditing Standards (GAGAS) require risk-based auditing to provide a high-level of assurance to the financial statement user and to discover material misstatements due to fraud or error. To apply risk-based criteria for auditing, the auditor must understand the audit entity and its internal controls to assess the risk of material misstatement in the entity's financial statements.

Explanation of State Revenues: *Communicating Knowledge of Confidential Results:* A public agency, employee, or official, or the employee or officer of a contractor or subcontractor who knowingly or intentionally communicates knowledge of the confidential results of an examination, except in certain circumstances, commits a Class A infraction. If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class A infraction is \$10,000, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, revenue from the automated record keeping fee (\$5) is deposited into the state user fee fund, and the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: *Schedule:* Local units that are examined less frequently will have reduced examination costs. Any reduction would depend on the rules adopted by the SBOA and the internal controls of the entity. An entity that needs an audit prior to the audit performed by the SBOA may incur additional costs for an independent auditor's review.

Prosecutor: The bill potentially increases the number of actions undertaken for crimes found in the examination of financial statements by having the State Examiner furnish the evidence of the crime to the county prosecutor. If the prosecutor is able to prosecute offenders in a timely manner, additional revenues may be recovered and fines assessed. However, incarceration costs could increase as well. Any increases in revenue or costs would depend on the penalty of the crime committed.

Additional Information - Prosecutor: Current law requires the State Examiner to report to the grand jury, and current practice is that the State Examiner works with the Attorney General. The SBOA certified 66 audit reports to the Attorney General's office for collection of \$2,954,332 for the period July 1, 2012, to June 30, 2014, and issued an additional 23 reports during the same period that returned \$254,461 to governmental units for funds that were misspent or stolen by individuals.

Explanation of Local Revenues: *Communicating Knowledge of Confidential Results:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Persons found guilty of an infraction are also required to pay the following fees that are deposited in local funds: the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: SBOA.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: A133 Circular; State Examiner testimony to the State Audit Committee, August 18, 2014, telephone conversation with Paul Joyce, State Examiner, on October 30, 2014. <https://www.comptroller.tn.gov/audit/AuditManual2011/APPENDIXB%20Fraud%20Risk.pdf>, SBOA Budget Transmittal Letter to Brian Bailey, presented to the Budget Committee on November 20, 2014.

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